

# Financial Institution Industry Response

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February 20, 2012

## **Acquisition of loans from entity that is NOT within Controlled Group.**

If the states agree that the language could be insert as 4(i)(2), draft language is:

(2) The acquisition of a loan or pool of loans from an entity that is not within the same controlled group of corporations at the time of the acquisition of the loan or pool of loans shall be considered a material change of fact with respect to the acquired loans.

Draft language if the states want the language in a new section 4(j):

4(j) **Acquisition of loans from outside of controlled group.** The location of a loan or pool of loans acquired from an entity that is not within the same controlled group of corporations at the time of the acquisition of the loan or pool of loans is based solely on the preponderance of the acquirer's substantive contacts with the acquired loans.

**Definition of controlled group.** As previously discussed, industry believes the federal definition should apply for separate return states, and for unitary states the state's ownership or control definition could be substituted for the 80% ownership requirement.

Separate reporting state draft language:

For purposes of this subsection, "controlled group of corporations" means "controlled group of corporations" as defined in Section 1563(a) of the Internal Revenue Code.

Unitary state draft language:

For purposes of this subsection, "controlled group of corporations" means "controlled group of corporations" as defined in Section 1563(a) of the Internal Revenue Code, except that the definition that the state uses for defining unitary ownership or control shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.